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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,906	01/02/2001	Pieter Wilhelmus Johannes Smak	B0-42001	7281

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EXAMINER

VALENTI, ANDREA M

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 08/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/720,906

Applicant(s)

SMAK, PIETER WILHELMUS  
JOHANNES

Examiner

Andrea M. Valenti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 39-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 39-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 39-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Des. 322,048 to Saarinen in view of U.S. Patent No. 5,678,356 to Wingerden.

Regarding Claim 39, Saarinen teaches a bulb tray with a plastic body having a number of accommodations for receiving one bulb in each accommodation, each of the accommodations being delimited by peripheral boundary walls and having a plurality of radially inwardly extending positioning members for clamping the bulb, each positioning member having a free edge, wherein each accommodation is provided at the top with an insertion opening for the bulb (Fig. 1) and is at least partially open at the bottom; the opening at the bottom being delimited by a cutting edge acting in the direction in which the bulb is removed from the accommodation (Fig. 4).

Saarinen is silent on adjacent accommodations sharing a common peripheral boundary wall. However, Wingerden teaches a tray with a common peripheral boundary wall (Wingerden #26). It would have been obvious to one of ordinary skill in the art to modify the teachings of Saarinen at the time of the invention with the

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teachings of Wingerden to provide a means to facilitate carrying of the tray. The addition of a peripheral boundary wall provides a surface edge that ergonomically enables someone to carry the tray without disrupting the bulbs.

Regarding Claim 46, Saarinen as modified discloses that the accommodations has eight sides and arranged in a honeycomb pattern (Saarinen Fig. 1), but is silent on a six sided design. However, it would have been obvious to one of ordinary skill in the art to modify the teachings since the modification is merely an aesthetic design choice or a change in size to accommodate different size bulbs. Furthermore, Saarinen as modified is silent that the positioning members extend from a corner point of the accommodation. However, it would have been obvious to one of ordinary skill in the art since the modification is merely an engineering design choice of shifting the location of parts that perform the same intended function.

Regarding Claims 40 and 47, Saarinen as modified teaches the positioning members are plates extending increasingly further into the accommodation from the insertion opening to the bottom of the accommodation (Saarinen Fig. 3 and Fig. 4).

Regarding Claims 41 and 48, Saarinen as modified teaches the plates are substantially perpendicular to the peripheral boundary of the accommodation (Saarinen Fig. 3 and Fig. 4).

Regarding Claims 42 and 49, Saarinen as modified inherently teaches that the positioning members have sharp cutting edges (Saarinen Fig. 4).

Regarding Claims 43 and 50, Saarinen as modified teaches that each accommodation has at least three positioning members (Saarinen Fig. 4).

Regarding Claims 44 and 51, Saarinen as modified does not explicitly teach that the boundary walls are of a thickness less than 2.5 mm. However, it would have been obvious to one of ordinary skill in the art to modify the teachings since the modification is merely an engineering design choice to achieve certain manufacturing cost parameters.

Regarding Claims 45 and 52, Saarinen as modified discloses that the positioning members have strips of material fixed at the top of the accommodations for resiliently clamping the plants (Saarinen Fig. 3).

Regarding Claims 53 and 54, Saarinen as modified teaches the bulb tray cultivation system (Saarinen Fig. 1-4), but is silent on the container that receives the bulb tray and free space. However, It would have been obvious to one of ordinary skill in the art to modify the teachings since it is and old and notoriously well-known to provide a tray under a plant support for transporting purposes and for use in hydroponic systems for collecting/distributing liquids and nutrients.

Regarding Claim 55, Saarinen as modified does not explicitly teach that the boundary walls are of a thickness less than 2.5 mm. However, it would have been obvious to one of ordinary skill in the art to modify the teachings since the modification is merely an engineering design choice to achieve certain manufacturing cost parameters.

### ***Response to Arguments***

Applicant's arguments with respect to claims 39-55 have been considered but are moot in view of the new ground(s) of rejection.


**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone numbers for the organization where this application or proceeding is assigned are 703-306-4195 for regular communications and 703-305-0285 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-4357.

AMV  
July 22, 2003

  
PETER M. POON  
SUPERVISOR, PATENT EXAMINER  
TECHNOLOGY CENTER/SEC0